

REMARKS

The present Amendment and Response After Final is in response to the Examiner's Final Office Action mailed on July 25, 2008.

The undersigned attorney notes with appreciation a telephone conversation with Examiner David Comstock held on October 16, 2008, wherein no prior art was discussed, but wherein the undersigned attorney discussed the "objected to" status of Claim 10 as designated by the Examiner in the Final Office Action dated July 25, 2008, and an Advisory Action dated September 24, 2008. No agreement was reached as to the allowability of any rejected claims.

Claims 12-20, 26-29, 31-33 and 35 were allowed in the July 25, 2008 Office Action. The allowance of Claims 12-20, 26-29, 31-33 and 35 is noted with appreciation. Claims 1-9, 11, 30 and 34 were rejected. The Examiner objected to Claim 10 as being dependent upon a rejected base claim, but indicated Claim 10 would be allowable if rewritten in independent form. The Applicant has amended Claim 1 to now include the limitation of prior Claim 10. Accordingly, Claim 1 and its remaining dependent Claims 2-9, 11, 30 and 34 should also be allowable. The Applicant has cancelled Claim 10. Based on the foregoing, all of pending Claims 1-9, 11-20 and 26-35 are in a condition for allowance.

The Examiner also rejected Claims 1-11, 30 and 34 under 35 U.S.C. § 112 on the grounds that there was no antecedent basis for "the image tracker." This claim language has been amended to read "an image tracker" in the current amendment. Finally, Claim 11 has been amended by inserting a space between the word "claim" and the number "1." Claims 1-9, 11-20 and 26-35 are now pending in view of the above amendments and a Notice of Allowance is respectfully requested.

Additional Remarks

The current amendment to Claim 1 moots the rejection of Claims 1-3 under 35 U.S.C. § 102, and also moots the rejection of Claims 4-9, 11, 30 and 34 under 35 U.S.C. § 103. Notwithstanding the amendments made herein, the Applicant respectfully disagrees with the Examiner's prior rejection of Claims 1-9, 11, 30 and 34, but without waiving any rights with regard to the original and/or prior content of Claims 1-9, 11, 30 and 34, Applicant submits this Amendment and Response After Final in order to expedite placement of the present application in a condition for allowance. The Applicant reserves the right to file one or more continuing applications for any unclaimed subject matter disclosed in the specification and drawings of the present application, including the original and/or prior content of Claims 1-9, 11, 30 and 34. None of the canceled limitations, claims or unclaimed subject matter of the present application is abandoned or dedicated to the public.

CONCLUSION

In view of the foregoing, Applicant believes the claims as amended are in allowable form. In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, or which may be overcome by an Examiner's Amendment, the Examiner is requested to contact the undersigned attorney.

Dated this 16th day of October, 2008.

Respectfully submitted,

/Mark L. Yaskanin/
Mark L. Yaskanin
Registration No. 45,246
Attorney for Applicant
Holme Roberts & Owen LLP
Customer No. 23337
Telephone: (303) 866-0269